

1 EDMUND G. BROWN JR.
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 GEOFFREY S. ALLEN
Deputy Attorney General
4 State Bar No. 193338
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5341
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-251**

12 **MELVIN JEROME CURETON,**
13 **a.k.a. MELVIN J. CURETON,**
a.k.a. MELVIN CURETON
14 1900 Woodglen Lane
Vacaville, CA 95687

ACCUSATION

15 Registered Nurse License No. 639221

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
22 Department of Consumer Affairs.

23 2. On or about June 30, 2004, the Board issued Registered Nurse License Number
24 639221 to Melvin Jerome Cureton, also known as Melvin J. Cureton and Melvin Cureton
25 ("Respondent"). Respondent's registered nurse license was in full force and effect at all times
26 relevant to the charges brought herein and will expire on December 31, 2011, unless renewed.

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STATUTORY PROVISIONS

3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions. . .

6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022. . .

7. California Code of Regulations, title 16, section ("Regulation") 1442 states:

As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

8. Regulation 1443 states:

As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5.

1 **COST RECOVERY**

2 9. Code section 125.3 provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **CONTROLLED SUBSTANCE AT ISSUE**

7 10. **Marijuana** is a Schedule I controlled substance as designated by Health and Safety
8 Code section 11054, subdivision (d)(13).

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Gross Negligence)**

11 11. Respondent is subject to disciplinary action pursuant to Code section 2761,
12 subdivision (a)(1), on the grounds of unprofessional conduct, in that, while on duty as a registered
13 nurse, Respondent was guilty of gross negligence, within the meaning of Regulation 1442, as
14 follows:

15 **Alta Bates Summit Medical Center**

16 a. On or about and between October 9, 2004, and March 25, 2005, Respondent was
17 employed as a travel nurse through HRN Services, Inc. and had accepted an assignment at Alta
18 Bates Summit Medical Center ("ABSMC") in Berkeley, California, when he did the following:

19 1. On or about October 9, 2004, Respondent failed to correctly identify his patients by
20 checking their identification bands prior to administering their medications.

21 2. On or about November 8, 2004, Respondent interfered with the therapeutic plan of a
22 patient's physician by discontinuing the patient's Patient Controlled Analgesia (PCA) epidural
23 infusion of Fentanyl without a physician's order to do so.

24 3. On or about February 3, 2005, Respondent failed to label a blood specimen taken
25 from a patient which resulted in the need to re-draw the patient's blood.

26 4. On or about March 25, 2005, Respondent administered a rectal narcotic to the wrong
27 patient.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Incompetence)**

3 12. Respondent is subject to disciplinary action pursuant to Code section 2761,
4 subdivision (a)(1), on the grounds of unprofessional conduct in that on or about November 8,
5 2004, while on duty as a registered nurse at ABSMC, Respondent was guilty of incompetence,
6 within the meaning of Regulation 1443, as follows:

7 a. Respondent failed to demonstrate knowledge regarding the physiology of therapeutic
8 narcotic analgesic medication administration in his care of a patient (the same patient referenced
9 in subparagraph 11(a)(2), above) when he discontinued the physician's therapeutic plan and
10 prescription for a patient's infusion of epidural Fentanyl.

11 b. Respondent also failed to demonstrate knowledge regarding the physiology of the
12 route of medication delivery in his care of a patient (the same patient referenced in subparagraph
13 11(a)(2), above) when he discontinued the patient's infusion of epidural Fentanyl.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct)**

16 13. Respondent is subject to disciplinary action pursuant to Code section 2761,
17 subdivision (a), in that while on duty as a registered nurse, Respondent committed acts
18 constituting unprofessional conduct, as follows:

19 a. Complainant incorporates by reference as though fully set forth herein the allegations
20 contained in paragraphs 11 and 12, above.

21 **Emanuel Medical Center**

22 b. On or about August 26, 2004, when Respondent was employed as a travel nurse
23 through Mobile Medical Staffing and had accepted an assignment at Emanuel Medical Center
24 ("EMC") in Turlock, California, Respondent failed to contact Patient D¹'s physician prior to
25 administering Methadone in a different form (tablets versus liquid) and in a different dose (100
26 mg versus 108 mg) than specified on the physician's order.

27 ¹ The patient identifiers in this document were taken from the report of Theresa E. Souza, R.N., M.S.N.,
28 C.N.S.

1 **Alta Bates Summit Medical Center**

2 c. On or about February 3, 2005, Respondent departed from responsible action and
3 professional accountability when he had a mental meltdown during a patient's change in
4 condition and subsequent code blue resuscitation.

5 d. On or about February 3, 2005, Respondent failed to document a patient's (the same
6 patient referenced in subparagraph 13(c), above) change in condition and the treatment provided
7 to the patient prior to leaving his shift.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Self-Administration of a Controlled Substance)**

10 14. Respondent's registered nurse license is subject to disciplinary action pursuant to
11 Code Section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code
12 section 2762, subdivision (a), in that on or about August 5, 2005, he self-administered the
13 controlled substance Marijuana without lawful authority therefore. On said date, Board
14 investigator James Ackley interviewed Respondent and requested that he provide a urine sample
15 for the purpose of a drug toxicology analysis. The results of the drug toxicology analysis were
16 positive for Cannabinoids (Marijuana).

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
19 and that following the hearing, the Board of Registered Nursing issue a decision:

20 1. Revoking or suspending Registered Nurse License Number 639221, issued to Melvin
21 Jerome Cureton, also known as Melvin J. Cureton and Melvin Cureton;

22 2. Ordering Melvin Jerome Cureton, also known as Melvin J. Cureton and Melvin
23 Cureton, to pay the Board of Registered Nursing the reasonable costs of the investigation and
24 enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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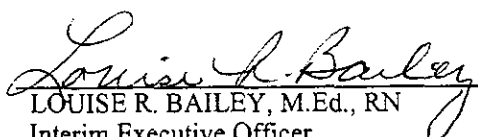
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3. Taking such other and further action as deemed necessary and proper.

DATED: 11/4/09


LOUISE R. BAILEY, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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